

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

MICHAEL NELSON

PETITIONER

VERSUS

CIVIL ACTION NO. 5:05cv13DCBJCS

CONSTANCE REESE

RESPONDENT

CERTIFICATE OF APPEALABILITY

A notice of appeal having been filed in the captioned habeas corpus case, in which the detention complained of arises out of process issued by a state court pursuant to 28 U.S.C. § 2254 or the detention arises out of a judgment and conviction in federal court which is being challenged pursuant to 28 U.S.C. § 2255, the court, considering the record in the case and the requirements of 28 U.S.C. § 2253 and Rule 22(b) of the Federal Rules of Appellate Procedure, hereby finds that:

Part A

☐ A certificate of appealability should issue. (See reasons below.)

☒ A certificate of appealability should not issue. (See reasons below.)

Part B

(for non-CJA pauper cases only)

☐ The party appealing is a pauper.

☒ The party appealing is not a pauper. (See reasons below.)

REASONS:

The petitioner has failed to make a “substantial showing of the denial of a constitutional right.” Cannon v. Johnson, 134 F.3d 683, 685 (5th Cir. 1998) (citing Barefoot v. Estelle, 463 U.S. 880, 893 (1983)).

The petitioner has not requested leave to appeal in forma pauperis.

Date: 4/5/06

S/DAVID BRAMLETTE
UNITED STATES DISTRICT JUDGE